IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 15329 of 2007(Y)

PETITIONER:

PRINCE ANTONY. P., AGED 28,
S/O.ANTONY, PUNNELIPARAMBIL HOSUE,
THAZHEKKAD P.O., THRISSUR DISTRICT-680 697.

BY ADV. SMT.P.V.KOCHUTHRESIA

RESPONDENTS:
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1. THE CHAIRMAN, KERALA PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.

2. THE SECRETARY, KERALA PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.

3. CONTROLLER OF EXAMINATIONS, KERALA PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C). No.15329 of 2007

Dated this the 2nd day of July, 2007.

JUDGMENT

The petitioner was a candidate, who applied for the post of Fisheries Inspector under the Kerala Government, when applications were invited for the same by the Public Service Commission. The written test was held on 11.11.2006. The answer key was published inviting objections from interested persons by the Public Service Commission on 1.12.2006. The petitioner submitted Ext.P4 objection pointing out the mistakes in the answers given to question Nos.5, 11, 13 and 27 in the answer key and seeking correction of the same. Those questions are from Question Booklet Alphacode C. Thereafter, the answer key was finally published with certain modifications on 1.3.2007. The petitioner found that the mistake pointed out by him in question No.5 is not corrected. So, he again submitted Ext.P8 representation. The said question relates to the place where the

Congress session was held in which the decision to call for civil disobedience was taken. According to the petitioner, it is at the 'Lahore Session'; but the answer key gave it as at the 'Ahemedbad Session'. The petitioner has produced Exts.P6 and P7 materials to support his claim. The petitioner is already included in Ext.P9 short list. Its main list contains only 35 persons. The petitioner has given correct answer to question No.5. But since the finalised key treats the said answer as wrong, he is likely to lose 2.66 marks, it is submitted. The same will considerably affect his rank in the rank list. Therefore, this writ petition is filed seeking a direction to grant appropriate reliefs.

2. The Public Service Commission has filed a counter affidavit, in which it is submitted that no representation was received from the petitioner suggesting modification of the answers as claimed by him in the writ petition. It is also submitted that the

Public Service Commission did not receive Ext.P4 or any objection to question No.5. Therefore, the answer key was finalised without modifying the answer to question No.5.

3. The petitioner has filed a reply affidavit reiterating that he has personally presented the objection in the Public Service Commission's office on 5.12.2006. It was put in the box kept for it in the office at Thiruvananthapuram. The petitioner has also produced additional materials, Exts.P11 to P13, to show that the answer given by him is correct.

4. Heard the learned counsel on both sides.

5. It is common case that the answer key was finalised only after giving an opportunity to the candidates and other persons to point out the correct answers to the various questions. The Public Service Commission asserts that no one objected to the answer given to question No.5, though the petitioner would

seriously dispute this submission. But, it being a disputed question of fact, this court cannot decide it under Article 226. If nobody objected to the answer given to question No.5 in the answer key, I find nothing illegal in the Public Service Commission finalising the answer key without any modification.

In the result, this court is not justified in interfering with the finalised answer key based on which the valuation was made. Accordingly, the writ petition fails and it is dismissed.

Sd/-

(K.BALAKRISHNAN NAIR)
JUDGE

sk/

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